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2 **COMMERCIAL FISHERIES**

3 **DIVISION 005**

4 **COMMERCIAL SHELLFISH AND MARINE INVERTEBRATE FISHERIES**

5
6 **635-005-0405**

7 **Requirement for Ocean Dungeness Crab Permit**

8 (1) It is *unlawful* to take, land or possess Dungeness crab from the ocean Dungeness crab fishery without first
9 obtaining an Ocean Dungeness Crab Permit issued pursuant to ORS 508.931 or 508.941. An Ocean Dungeness
10 Crab Permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do
11 not retrieve, retain or possess Dungeness crab.

12 (2) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive Dungeness crab taken in the ocean
13 Dungeness crab fishery from a vessel for which the permit required by this rule has not been issued.

14 (3) If the Commission establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean
15 Dungeness crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in
16 the ocean fishery.

17 (4) A Single Delivery License shall not be substituted for an Ocean Dungeness Crab Permit. Once a vessel has
18 obtained an Ocean Dungeness Crab Permit, Dungeness crab may be landed by the vessel using a combination
19 of an Ocean Dungeness Crab Permit and a Single Delivery License in lieu of a commercial fishing and boat
20 license. However, crab may not be landed more than twice in any one ocean Dungeness crab fishing season
21 using Single Delivery Licenses.

22 (5) Effective December 1, 2006, the amount of Dungeness crab gear allocated to a permit required under
23 section (1) above will be determined as follows:

24 (a) The allocation will be based on documented landings of ocean Dungeness crab into Oregon, Washington
25 (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or
26 equivalent valid documents from the states of Washington or California, from December 1, 1995 through
27 August 14, 2001;

28 (b) The Dungeness crab gear allocation will be the highest number of pots and rings in aggregate the vessel
29 qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year
30 (except through August 14, in 2001);

31 (c) A Dungeness crab gear allocation of 200 shall be assigned to a permit with landings less than 15,020
32 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997
33 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season,
34 and 8,940 pounds in the 2000 to 2001 season;

35 (d) A Dungeness crab gear allocation of 300 shall be assigned to a permit with minimum landings of 15,020
36 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to
37 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or
38 8,940 pounds in the 2000 to 2001 season; and



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39 (e) A Dungeness crab gear allocation of 500 shall be assigned to a permit with minimum landings of 89,020
40 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997
41 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or
42 37,030 pounds in the 2000 to 2001 season.

43 (6) The Ocean Dungeness Crab Permit required by section (1) of this rule is in addition to and not in lieu of the
44 commercial fishing and boat license required by ORS 508.235 and ORS 508.260.

45 (7) No vessel may hold more than one Ocean Dungeness Crab Permit at any one time.

46 (8) Unless otherwise provided, Ocean Dungeness Crab Permits must be purchased by December 31 of the year
47 the permit is sought for renewal.

48 (9) Applications for Ocean Dungeness Crab Permits shall be in such form and contain such information as the
49 Department may prescribe. Proof of length of a vessel may be required at the time of application.

50 **(10) Notwithstanding section (5) of this rule, effective for calendar years 2021 through 2023, from May 1**
51 **through August 14 the amount of Dungeness crab gear allocated to a permit required under section (1) of**
52 **this rule shall be reduced to 80 percent of the amount allocated under section (5) of this rule. A permit**
53 **assigned a Dungeness crab gear allocation per section (5) of this rule of:**

54 **(a) 200 shall be assigned a Dungeness crab gear allocation of 160;**

55 **(b) 300 shall be assigned a Dungeness crab gear allocation of 240; or**

56 **(c) 500 shall be assigned a Dungeness crab gear allocation of 400.**

57
58 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

59 Stats. Implemented: ORS 506.109, 506.129, 506.306, 508.926 & 508.931

60 Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

61
62 **635-005-0460**

63 **Harvest Areas — Dungeness Crab Fishery**

64 **(1) Oregon Dungeness crab permits are valid only in Oregon state waters and the Pacific Ocean in federal waters**
65 **south of an east-west line extending westward at 46° 15' 00" North Latitude (Oregon/Washington border) and**
66 **north of an east-west line at 42° 00' 00" North Latitude (Oregon/California border).**

67 **(2) Effective for calendar years 2021 through 2023, from May 1 through August 14 it is unlawful to place,**
68 **operate, or leave commercial Dungeness crab gear seaward of the 30 fathom curve (defined by latitude**
69 **and longitude) as shown in Title 50 Code of Federal Regulations Part 660 Section 71. Any commercial**
70 **Dungeness crab gear found seaward of the 30 fathom curve during the effective dates shall be**
71 **considered derelict and may be retrieved per 635-005-0490.**

72
73 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

74 Stats. Implemented: ORS 506.109 & 506.129

75 Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12

76



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- 77 **635-005-0465**
- 78 **Closed Season in Pacific Ocean and Columbia River**
- 79 (1) It is unlawful to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or
80 Columbia River from August 15 through December 1, 08:59 AM.
- 81 (2) The season opening for the commercial Ocean Dungeness crab fishery may be delayed in one or more fishing
82 zones based on the results of crab quality testing. The Pre-season Testing Protocol for the Tri-State Coastal
83 Dungeness crab Commercial Fishery (hereafter, "Tri-State Protocol") specifies the process for establishing fishing
84 zones (section VI) and coordinating the opening of the fishery in Washington, Oregon, and California north of
85 Point Arena (sections IV and V). Therefore, the following sections of the Tri-State Protocol (~~August 2019~~) **INSERT**
86 **REFERENCE WHEN AVAILABLE**) are hereby incorporated into Oregon Administrative Rule by reference:
- 87 (a) Section IV – Season Opening Criteria.
- 88 (b) Section V – Test Fishing and Process for Setting the Season Opening Date.
- 89 (c) Section VI – Procedure for Establishing Fishing Zones. As used in the Tri-State Protocol "fishing" means any
90 operation of Dungeness crab fishing gear to take, possess on board, or land Dungeness crab for commercial
91 purposes, except setting Dungeness crab gear for another vessel as allowed per OAR 635-005-0405(1). In the
92 event that crab quality tests do not meet the criteria for opening the season on December 1, the Director shall
93 adopt temporary rules delaying the season in accordance with the Tri-State Protocol.
- 94 (3) It is unlawful to land, receive or buy, Dungeness crab in the first thirty days of the ocean Dungeness crab
95 fishery from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to
96 have been free of Dungeness crab before fishing in the ocean Dungeness crab fishery. In the event the area
97 between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season
98 opening dates, the ocean Dungeness crab fishery refers to the fishery in that zone for the purposes of this rule.
- 99 (4) In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones
100 with different season opening dates, the transfer of a permit from one vessel to another is suspended from the
101 earliest season opening date through thirty days after the latest season opening date, except in the event a vessel
102 is unintentionally destroyed due to fire, capsizing, sinking, or other event.
- 103 (5) Upon a determination by the Department that catch in Oregon's ocean Dungeness crab fishery after May 31 is
104 greater than ten percent of the catch in the previous December 1 through May 31 period, the Director shall adopt
105 a temporary rule closing the commercial season until the following December 1.
- 106
- 107 [Publications: Publications referenced are available from the Department.]
- 108
- 109 Statutory/Other Authority: ORS 506.036, ORS 506.109, ORS 506.119 & ORS 506.129
- 110 Statutes/Other Implemented: ORS 506.109 & ORS 506.129
- 111 Hist.: Adopted 9-13-19, f.9-30-19 & ef. 10-1-19
- 112
- 113 **635-005-0466**
- 114 **Dungeness Crab Closure or Evisceration Requirement Based on Biotoxin**



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- 115 (1) For the purposes of this rule, unless context requires otherwise, the following definitions apply:
- 116 (a) "Biotoxin management zone" means one or more harvest areas that due to test results the Oregon
117 Department of Agriculture, in order to protect public health from domoic acid or other biotoxin concerns, has so
118 designated in accordance with OAR 603-025-0410.
- 119 (b) "Harvest area" means a section of waters of this state or the Pacific Ocean off Oregon delineated for crab
120 traceability purposes in accordance with OAR 635-006-0201.
- 121 (2) During any open commercial Dungeness crab season, **if a biotoxin management zone is designated due**
122 **to a single crab sample result at or above 20 ppm in the meat,** it is unlawful to:
- 123 **(a) Land [land] Dungeness crab taken for commercial purposes from [any biotoxin management zone that**
124 **was so designated due to a single crab sample result of 20 ppm or above in the meat.] or into a harvest area**
125 **within a biotoxin management zone that an affected crab sample was taken from starting at 12:01 on the**
126 **date of harvest of the affected sample; and**
- 127 **(b) Land crab taken for commercial purposes from any harvest area within a biotoxin management**
128 **zone where all crab samples were below 20 ppm in the meat unless the conditions set forth in OAR 603-**
129 **025-0410(6) are met, starting at 12:01 am on the date that test results are issued.**
- 130 (3) During any open commercial Dungeness crab season, it is unlawful to land Dungeness crab taken for
131 commercial purposes from any biotoxin management zone that was so designated due to a single crab sample
132 result at or above 30 ppm in the viscera and below 20 ppm in the meat unless the conditions set forth in OAR
133 603-025-0410(6) are met, starting from:
- 134 (a) ~~[The date and time of the landing]~~ **12:01 am on the date of harvest** of the crab sample that was at or
135 above 30 ppm in the viscera and below 20 ppm in the meat, if the landed Dungeness crab taken for commercial
136 purposes was taken from a harvest area where such result was taken; or
- 137 (b) ~~[The date and time of the biotoxin management area designation]~~ **12:01 am on the date that test results**
138 **are issued,** if the Dungeness crab taken for commercial purposes was not taken from a harvest area where a
139 crab sample result was at or above 30 ppm in the viscera and below 20 ppm in the meat.

141 Stat. Auth.: ORS 506.036, 506.109, 506.119 and 506.129

142 Stats. Implemented: ORS 506.109 and 506.129

143 Hist.: Adopted 9-13-19, f.9-30-19 & ef. 10-1-19

144

145 **635-005-0480**

146 **Dungeness Crab Buoy Tag and Gear Marking Requirements**

147 It is *unlawful* for commercial purposes to:

- 148 (1) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually
149 marked with a surface buoy bearing, in a visible, legible and permanent manner, the buoy brand and buoy
150 color(s) of the owner, and the Department buoy tag, provided that:



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- 151 (a) The buoy brand consists of letters and/or numbers, and the buoy brand and buoy color or color
 152 combination are registered with and approved by the Department; The buoy color or color combination shall be
 153 submitted to the Department as a color photograph for registration;
- 154 (b) Only one unique buoy brand and one buoy color or color combination shall be registered to any one
 155 permitted vessel;
- 156 (c) All Dungeness crab gear fished by a permitted vessel must use only the Oregon buoy brand number and
 157 at least one buoy with the buoy color or color combination registered to that vessel in the area off of Oregon;
- 158 (d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount
 159 determined by OAR 635-005-0405(5);
- 160 (e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to
 161 the gear prior to setting gear;
- 162 (f) Buoys attached to Dungeness crab gear must have the buoy tag securely attached to the buoy closest to
 163 the gear at the end away from the buoy line; and
- 164 (g) Additional buoy tags to replace lost tags will be issued by the Department as follows:
- 165 ~~[(A) As of the first business day after 30 days following the season opening in the area fished, up to ten~~
 166 ~~percent of the tags initially issued for that season; or]~~
- 167 **(A)**~~[(B)]~~ For a catastrophic loss, as defined in ORS 635-005-0240; or
- 168 **(B)**~~[(C)]~~ If the Director finds that the loss of buoy tags was:
- 169 (i) Due to an extraordinary event;
- 170 (ii) The loss was minimized with the exercise of reasonable diligence; and
- 171 (iii) Reasonable efforts were taken to recover lost buoy tags and associated fishing gear.
- 172 **(C)**~~[(D)]~~ Upon receipt of the declaration of loss required by subsection (1)(g)(E) of this rule, and a request
 173 for replacement tags under sub-subsection (1)(g)(C) of this rule, the Director or the Director's designee may
 174 provide an opportunity for the permit holder requesting the replacement tags to describe why the buoy tag loss
 175 meets the criteria for replacement under subsection (1)(g)(C) of this rule. The Director or the Director's designee
 176 shall provide the Director's order to the permit holder and to the Department's License Services. The permit
 177 holder may appeal the Director's findings to the Fishery Permit Review Board under OAR 635-005-0425.
- 178 **(D)**~~[(E)]~~ Permit holders (or their alternative designated on the buoy tag order form) must obtain, complete,
 179 and sign a declaration of loss under penalty of perjury in the presence of an authorized Department employee.
 180 The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last
 181 observed, and the presumed cause of the loss.
- 182 (2) Possess on a vessel, use, control, or operate any Dungeness crab gear which does not have a tag affixed to
 183 the individual pot or ring identifying the gear as belonging to that vessel, a surface buoy bearing the Department
 184 buoy brand registered to that vessel, and a Department buoy tag issued by the Department to that vessel, as
 185 pursuant to ORS 509.415, except:
- 186 (a) To set gear as allowed under OAR 635-005-0405; or
- 187 (b) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to
 188 shore by another crab permitted vessel provided that:



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189 (A) The vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or
190 sinking;

191 (B) Circumstances beyond the control of the permit holder as defined by undue hardship in OAR 635-
192 005-0240 **occurred**;

193 (C) A Request must be in writing and a waiver approved and issued prior to retrieval; and

194 (D) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of Fish
195 and Wildlife Licensing Services, Salem for guidelines).

196 (c) Under a waiver granted by the Department to allow one time change of buoy tags associated with a
197 Dungeness crab permit transfer under OAR 635-005-0440 provided that:

198 (A) A request must be in writing and a waiver approved and issued prior to change of buoy tags; and

199 (B) A copy of the waiver must be on board the vessel making the change of buoy tags (Contact
200 Department of Fish and Wildlife Licensing Services, Salem for guidelines).

201 **(d) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab**
202 **gear to shore by another crab permitted vessel from August 1 through August 14 provided that:**

203 **(A) A Request must be in writing and a waiver approved and issued prior to retrieval; and**

204 **(B) A copy of the waiver must be on board the vessel making the retrieval (Contact Department of**
205 **Fish and Wildlife Licensing Services, Salem for guidelines).**

206 **(e)[(d)]** When retrieving derelict Dungeness crab gear as pursuant to OAR 635-005-0490 or 635-005-0491;

207 **(f)[(e)]** A vessel may transit through the Columbia River and the Pacific Ocean adjacent to Oregon while
208 possessing Dungeness crab gear not bearing Oregon buoy tags or Oregon buoy branded surface buoys,
209 provided that the vessel is authorized and en route to participate or returning from participating in the Dungeness
210 crab fishery of an adjacent state; or

211 **(g)[(f)]** When operating crab rings in bays or estuaries, only a tag affixed to the individual ring is required.

212 **(3) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean with a line mark that is**
213 **required for any state or federal fishery, other than the Oregon Dungeness crab fishery, operating in the**
214 **U.S. West Coast EEZ, or the state waters of Washington, Oregon, or California.**

215 **(4) Effective for calendar years 2021 through 2023, from May 1 through August 14, possess on a vessel,**
216 **use, control, or operate commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless**
217 **the gear is individually marked with a secondary Department buoy tag issued by the Department to that**
218 **vessel in addition to the buoy tag required under section (1) of this rule, provided that:**

219 **(a) The primary buoy tag shall remain attached as required per section (1) of this rule;**

220 **(b) The secondary buoy tag shall be securely attached to the buoy closest to the gear at the end away**
221 **from the buoy line;**

222 **(c) The Department shall issue secondary buoy tags to the owner of each commercial crab permit in**
223 **the amount requested by the permit owner, not to exceed the amount determined by OAR 635-005-**
224 **0405(10);**

225 **(d) Secondary buoy tags must be purchased from the Department at cost and attached to the gear as**
226 **of the effective date but no earlier than two weeks before the effective date; and**



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227 (e) The exceptions found in sections (2)(b) through (2)(g) of this rule also apply to this section; and
 228 (f) Any commercial Dungeness crab gear found in the ocean or Columbia River without a secondary
 229 buoy tag during the effective dates of this section shall be considered derelict and may be retrieved per
 230 635-005-0490.

231

232 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

233 Stats. Implemented: ORS 506.109 & 506.129

234 Hist.: Adopted 9-13-19 f. 9-30-19 ef. 10-1-19

235

236 **635-005-0485**237 **Dungeness Crab Gear Prohibitions**238 It is *unlawful* for commercial purposes to:

239 (1) Place, operate, or leave Dungeness crab gear in the Pacific Ocean, Columbia River or in any bay or estuary
 240 during the closed season, except that in only the Pacific Ocean and Columbia River, Dungeness crab gear may
 241 be placed no more than 73 hours immediately prior to the date the Dungeness crab season opens. ~~[In addition,~~
 242 ~~unbaited Dungeness crab gear with open release mechanisms may be left in the Pacific Ocean (not including the~~
 243 ~~Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.]~~

244 (2) Have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without
 245 making a landing of Dungeness crab.

246 (3) Remove, damage, or otherwise tamper with crab buoy, pot or ring tags except:

247 (a) When lawfully applying or removing tags on the vessel's buoys, pots or rings; or

248 (b) When lawfully removing tags on crab gear retrieved under a Post-Season Derelict Gear Permit pursuant to
 249 OAR 635-005-0491 and after the gear has been registered by state officials.250 (4) Attach one crab pot or ring to another crab pot or ring by a common groundline or any other means that
 251 connects Dungeness crab gear together.

252 (5) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

253 (6) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to
 254 the state of Oregon unless a Dungeness crab gear allocation has been issued to the permit required under OAR
 255 635-005-0405(5).256 (7) Deploy or fish more Dungeness crab gear than the number of pots and rings in aggregate assigned by the
 257 Dungeness Crab Pot Allocation Certificate or to use any vessel other than the vessel designated on the
 258 Dungeness Crab Pot Allocation Certificate, except to set gear as allowed under OAR 635-005-0405.259 **(8) Use Dungeness crab gear with more line than is reasonably necessary to compensate for tides,**
 260 **currents, and weather.**

261

262 Stat. Auth.: ORS 506.036, 506.109, 506.119 and 506.129

263 Stats. Implemented: ORS 506.109 and 506.129

264 Hist.: Adopted 9-4-15, f. & ef. 10-29-15



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265 **635-005-0490**

266 **Derelict Dungeness Crab Gear**

267 Derelict Dungeness crab gear may be retrieved from the ocean, including the Columbia River, and transported to
268 shore provided that:

269 (1) The retrieving vessel holds a valid boat license, issued pursuant to ORS 508.260, and the captain and crew of
270 that vessel hold valid commercial fishing license(s), issued pursuant to ORS 508.235.

271 (2) The number of derelict Dungeness crab gear which may be retrieved per trip are as follows:

272 (a) From the opening of the ocean Dungeness crab fishery in the area where retrieval takes place until the
273 second Monday in June of the same ocean Dungeness crab season: 25 derelict pots and rings in aggregate;

274 (b) From the second Monday in June through ~~August 28~~ **August 14**: 50 derelict pots and rings in aggregate;

275 (c) ~~August 29~~ **August 15** through October 31: an unlimited number of derelict pots and rings may be
276 retrieved.

277 (3) Upon retrieval from the ocean or Columbia River, the Dungeness crab gear must be un-baited.

278 (4) Crab from the retrieved Dungeness crab gear shall not be retained, except crab of legal size and sex may be
279 retained by vessels holding a valid Dungeness crab permit, at such times and in such areas that Dungeness crab
280 may otherwise be legally taken for commercial purposes.

281 (5) Immediately upon retrieval of Dungeness crab gear, the retrieving vessel operator must document in the
282 retrieving vessel's logbook the date and time of pot or ring retrieval, number of retrieved crab pots or rings in
283 aggregate, location of retrieval, and retrieved Dungeness crab gear owner identification information.

284 (6) Any retrieved Dungeness crab gear must be transported to shore during the same fishing trip that retrieval
285 took place.

286

287 Stat. Auth.: ORS 506.036, 506.109, 506.119 & 506.129

288 Stats. Implemented: ORS 506.109, 506.129 & 506.306

289 Hist.: Adopted 6-8-12, f. 6-28-12, ef. 7-1-12